

108TH CONGRESS  
1ST SESSION

# H. R. 758

---

IN THE SENATE OF THE UNITED STATES

APRIL 2, 2003

Received; read twice and referred to the Committee on Banking, Housing, and  
Urban Affairs

---

## AN ACT

To allow all businesses to make up to 24 transfers each month from interest-bearing transaction accounts to other transaction accounts, to require the payment of interest on reserves held for depository institutions at Federal reserve banks, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Business Checking  
5       Freedom Act of 2003”.

6       **SEC. 2. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**  
7               **THORIZED FOR ALL BUSINESSES.**

8       (a) Section 2 of Public Law 93–100 (12 U.S.C. 1832)  
9       is amended—

10           (1) by redesignating subsections (b) and (c) as  
11           subsection (c) and (d), respectively; and

12           (2) by inserting after subsection (a) the fol-  
13           lowing:

14           “(b) Notwithstanding any other provision of law, any  
15       depository institution may permit the owner of any deposit  
16       or account which is a deposit or account on which interest  
17       or dividends are paid and is not a deposit or account de-  
18       scribed in subsection (a)(2) to make up to 24 transfers  
19       per month (or such greater number as the Board of Gov-  
20       ernors of the Federal Reserve System may determine by  
21       rule or order), for any purpose, to another account of the  
22       owner in the same institution. An account offered pursu-  
23       ant to this subsection shall be considered a transaction  
24       account for purposes of section 19 of the Federal Reserve

1 Act unless the Board of Governors of the Federal Reserve  
 2 System determines otherwise.”.

3 (b) Effective at the end of the 2-year period begin-  
 4 ning on the date of the enactment of this Act, section 2  
 5 of Public Law 93–100 (12 U.S.C. 1832) is amended—

6 (1) in subsection (a)(1), by striking “but sub-  
 7 ject to paragraph (2)”;

8 (2) by striking paragraph (2) of subsection (a)  
 9 and inserting the following new paragraph:

10 “(2) No provision of this section may be con-  
 11 strued as conferring the authority to offer demand  
 12 deposit accounts to any institution that is prohibited  
 13 by law from offering demand deposit accounts.”; and

14 (3) in subsection (b) (as added by subsection  
 15 (a) of this section) by striking “and is not a deposit  
 16 or account described in subsection (a)(2)”.

17 **SEC. 3. INTEREST-BEARING TRANSACTION ACCOUNTS AU-**  
 18 **THORIZED.**

19 (a) REPEAL OF PROHIBITION ON PAYMENT OF IN-  
 20 TEREST ON DEMAND DEPOSITS.—

21 (1) FEDERAL RESERVE ACT.—Section 19(i) of  
 22 the Federal Reserve Act (12 U.S.C. 371a) is amend-  
 23 ed to read as follows:

24 “(i) [Repealed]”.

1           (2) HOME OWNERS’ LOAN ACT.—The first sen-  
 2           tence of section 5(b)(1)(B) of the Home Owners’  
 3           Loan Act (12 U.S.C. 1464(b)(1)(B)) is amended by  
 4           striking “savings association may not—” and all  
 5           that follows through “(ii) permit any” and inserting  
 6           “savings association may not permit any”.

7           (3) FEDERAL DEPOSIT INSURANCE ACT.—Sec-  
 8           tion 18(g) of the Federal Deposit Insurance Act (12  
 9           U.S.C. 1828(g)) is amended to read as follows:  
 10          “(g) [Repealed]”.

11          (b) EFFECTIVE DATE.—The amendments made by  
 12          subsection (a) shall take effect at the end of the 2-year  
 13          period beginning on the date of the enactment of this Act.

14      **SEC. 4. PAYMENT OF INTEREST ON RESERVES AT FEDERAL**  
 15                                      **RESERVE BANKS.**

16          (a) IN GENERAL.—Section 19(b) of the Federal Re-  
 17          serve Act (12 U.S.C. 461(b)) is amended by adding at  
 18          the end the following new paragraph:

19                              “(12) EARNINGS ON RESERVES.—

20                                      “(A) IN GENERAL.—Balances maintained  
 21                              at a Federal reserve bank by or on behalf of a  
 22                              depository institution may receive earnings to  
 23                              be paid by the Federal reserve bank at least  
 24                              once each calendar quarter at a rate or rates

1 not to exceed the general level of short-term in-  
2 terest rates.

3 “(B) REGULATIONS RELATING TO PAY-  
4 MENTS AND DISTRIBUTION.—The Board may  
5 prescribe regulations concerning—

6 “(i) the payment of earnings in ac-  
7 cordance with this paragraph;

8 “(ii) the distribution of such earnings  
9 to the depository institutions which main-  
10 tain balances at such banks or on whose  
11 behalf such balances are maintained; and

12 “(iii) the responsibilities of depository  
13 institutions, Federal home loan banks, and  
14 the National Credit Union Administration  
15 Central Liquidity Facility with respect to  
16 the crediting and distribution of earnings  
17 attributable to balances maintained, in ac-  
18 cordance with subsection (c)(1)(A), in a  
19 Federal reserve bank by any such entity on  
20 behalf of depository institutions.

21 “(C) DEPOSITORY INSTITUTIONS DE-  
22 FINED.—For purposes of this paragraph, the  
23 term ‘depository institution’, in addition to the  
24 institutions described in paragraph (1)(A), in-  
25 cludes any trust company, corporation orga-

1 nized under section 25A or having an agree-  
 2 ment with the Board under section 25, or any  
 3 branch or agency of a foreign bank (as defined  
 4 in section 1(b) of the International Banking Act  
 5 of 1978).”.

6 (b) AUTHORIZATION FOR PASS THROUGH RESERVES  
 7 FOR MEMBER BANKS.—Section 19(c)(1)(B) of the Fed-  
 8 eral Reserve Act (12 U.S.C. 461(c)(1)(B)) is amended by  
 9 striking “which is not a member bank”.

10 (c) CONSUMER BANKING COSTS ASSESSMENT.—

11 (1) IN GENERAL.—The Federal Reserve Act  
 12 (12 U.S.C. 221 et seq.) is amended—

13 (A) by redesignating sections 30 and 31 as  
 14 sections 31 and 32, respectively; and

15 (B) by inserting after section 29 the fol-  
 16 lowing new section:

17 **“SEC. 30. SURVEY OF BANK FEES AND SERVICES.**

18 “(a) ANNUAL SURVEY REQUIRED.—The Board of  
 19 Governors of the Federal Reserve System shall obtain an-  
 20 nually a sample, which is representative by type and size  
 21 of the institution (including small institutions) and geo-  
 22 graphic location, of the following retail banking services  
 23 and products provided by insured depository institutions  
 24 and insured credit unions (along with related fees and  
 25 minimum balances):

1           “(1) Checking and other transaction accounts.

2           “(2) Negotiable order of withdrawal and sav-  
3       ings accounts.

4           “(3) Automated teller machine transactions.

5           “(4) Other electronic transactions.

6       “(b) MINIMUM SURVEY REQUIREMENT.—The annual  
7       survey described in subsection (a) shall meet the following  
8       minimum requirements:

9           “(1) CHECKING AND OTHER TRANSACTION AC-  
10       COUNTS.—Data on checking and transaction ac-  
11       counts shall include, at a minimum, the following:

12               “(A) Monthly and annual fees and min-  
13       imum balances to avoid such fees.

14               “(B) Minimum opening balances.

15               “(C) Check processing fees.

16               “(D) Check printing fees.

17               “(E) Balance inquiry fees.

18               “(F) Fees imposed for using a teller or  
19       other institution employee.

20               “(G) Stop payment order fees.

21               “(H) Nonsufficient fund fees.

22               “(I) Overdraft fees.

23               “(J) Deposit items returned fees.

1           “(K) Availability of no-cost or low-cost ac-  
2           counts for consumers who maintain low bal-  
3           ances.

4           “(2) NEGOTIABLE ORDER OF WITHDRAWAL AC-  
5           COUNTS AND SAVINGS ACCOUNTS.—Data on nego-  
6           tiable order of withdrawal accounts and savings ac-  
7           counts shall include, at a minimum, the following:

8           “(A) Monthly and annual fees and min-  
9           imum balances to avoid such fees.

10          “(B) Minimum opening balances.

11          “(C) Rate at which interest is paid to con-  
12          sumers.

13          “(D) Check processing fees for negotiable  
14          order of withdrawal accounts.

15          “(E) Fees imposed for using a teller or  
16          other institution employee.

17          “(F) Availability of no-cost or low-cost ac-  
18          counts for consumers who maintain low bal-  
19          ances.

20          “(3) AUTOMATED TELLER TRANSACTIONS.—  
21          Data on automated teller machine transactions shall  
22          include, at a minimum, the following:

23          “(A) Monthly and annual fees.

24          “(B) Card fees.



1           “(C) Fees charged to customers for with-  
2           drawals, deposits, and balance inquiries through  
3           institution-owned machines.

4           “(D) Fees charged to customers for with-  
5           drawals, deposits, and balance inquiries through  
6           machines owned by others.

7           “(E) Fees charged to noncustomers for  
8           withdrawals, deposits, and balance inquiries  
9           through institution-owned machines.

10          “(F) Point-of-sale transaction fees.

11          “(4) OTHER ELECTRONIC TRANSACTIONS.—  
12          Data on other electronic transactions shall include,  
13          at a minimum, the following:

14               “(A) Wire transfer fees.

15               “(B) Fees related to payments made over  
16               the Internet or through other electronic means.

17          “(5) OTHER FEES AND CHARGES.—Data on  
18          any other fees and charges that the Board of Gov-  
19          ernors of the Federal Reserve System determines to  
20          be appropriate to meet the purposes of this section.

21          “(6) FEDERAL RESERVE BOARD AUTHORITY.—  
22          The Board of Governors of the Federal Reserve Sys-  
23          tem may cease the collection of information with re-  
24          gard to any particular fee or charge specified in this  
25          subsection if the Board makes a determination that,

1 on the basis of changing practices in the financial  
2 services industry, the collection of such information  
3 is no longer necessary to accomplish the purposes of  
4 this section.

5 “(c) ANNUAL REPORT TO CONGRESS REQUIRED.—

6 “(1) PREPARATION.—The Board of Governors  
7 of the Federal Reserve System shall prepare a report  
8 of the results of each survey conducted pursuant to  
9 subsections (a) and (b) of this section and section  
10 136(b)(1) of the Consumer Credit Protection Act.

11 “(2) CONTENTS OF THE REPORT.—In addition  
12 to the data required to be collected pursuant to sub-  
13 sections (a) and (b), each report prepared pursuant  
14 to paragraph (1) shall include a description of any  
15 discernible trend, in the Nation as a whole, in a rep-  
16 resentative sample of the 50 States (selected with  
17 due regard for regional differences), and in each  
18 consolidated metropolitan statistical area (as defined  
19 by the Director of the Office of Management and  
20 Budget), in the cost and availability of the retail  
21 banking services, including those described in sub-  
22 sections (a) and (b) (including related fees and min-  
23 imum balances), that delineates differences between  
24 institutions on the basis of the type of institution  
25 and the size of the institution, between large and

1 small institutions of the same type, and any engage-  
2 ment of the institution in multistate activity.

3 “(3) SUBMISSION TO CONGRESS.—The Board  
4 of Governors of the Federal Reserve System shall  
5 submit an annual report to the Congress not later  
6 than June 1, 2005, and not later than June 1 of  
7 each subsequent year.

8 “(d) DEFINITIONS.—For purposes of this section, the  
9 term ‘insured depository institution’ has the meaning  
10 given such term in section 3 of the Federal Deposit Insur-  
11 ance Act, and the term ‘insured credit union’ has the  
12 meaning given such term in section 101 of the Federal  
13 Credit Union Act.”.

14 (2) CONFORMING AMENDMENT.—

15 (A) IN GENERAL.—Paragraph (1) of sec-  
16 tion 136(b) of the Truth in Lending Act (15  
17 U.S.C. 1646(b)(1)) is amended to read as fol-  
18 lows:

19 “(1) COLLECTION REQUIRED.—The Board shall  
20 collect, on a semiannual basis, from a broad sample  
21 of financial institutions which offer credit card serv-  
22 ices, credit card price and availability information  
23 including—

24 “(A) the information required to be dis-  
25 closed under section 127(c) of this chapter;

1           “(B) the average total amount of finance  
2 charges paid by consumers; and

3           “(C) the following credit card rates and  
4 fees:

5                   “(i) Application fees.

6                   “(ii) Annual percentage rates for cash  
7 advances and balance transfers.

8                   “(iii) Maximum annual percentage  
9 rate that may be charged when an account  
10 is in default.

11                   “(iv) Fees for the use of convenience  
12 checks.

13                   “(v) Fees for balance transfers.

14                   “(vi) Fees for foreign currency con-  
15 versions.”.

16           (B) EFFECTIVE DATE.—The amendment  
17 made by subparagraph (A) shall take effect on  
18 January 1, 2004.

19           (3) REPEAL OF OTHER REPORT PROVISIONS.—  
20 Section 1002 of Financial Institutions Reform, Re-  
21 covery, and Enforcement Act of 1989 and section  
22 108 of the Riegle-Neal Interstate Banking and  
23 Branching Efficiency Act of 1994 are hereby re-  
24 pealed.

1 (d) TECHNICAL AND CONFORMING AMENDMENTS.—  
 2 Section 19 of the Federal Reserve Act (12 U.S.C. 461)  
 3 is amended—

4 (1) in subsection (b)(4) (12 U.S.C. 461(b)(4)),  
 5 by striking subparagraph (C) and redesignating sub-  
 6 paragraphs (D) and (E) as subparagraphs (C) and  
 7 (D), respectively; and

8 (2) in subsection (c)(1)(A) (12 U.S.C.  
 9 461(c)(1)(A)), by striking “subsection (b)(4)(C)”  
 10 and inserting “subsection (b)”.

11 **SEC. 5. INCREASED FEDERAL RESERVE BOARD FLEXI-**  
 12 **BILITY IN SETTING RESERVE REQUIRE-**  
 13 **MENTS.**

14 Section 19(b)(2)(A) of the Federal Reserve Act (12  
 15 U.S.C. 461(b)(2)(A)) is amended—

16 (1) in clause (i), by striking “the ratio of 3 per  
 17 centum” and inserting “a ratio not greater than 3  
 18 percent (and which may be zero)”; and

19 (2) in clause (ii), by striking “and not less than  
 20 8 per centum,” and inserting “(and which may be  
 21 zero),”.

22 **SEC. 6. TRANSFER OF FEDERAL RESERVE SURPLUSES.**

23 (a) IN GENERAL.—Section 7(b) of the Federal Re-  
 24 serve Act (12 U.S.C. 289(b)) is amended by adding at  
 25 the end the following new paragraph:

1           “(4) ADDITIONAL TRANSFERS TO COVER IN-  
2       TEREST PAYMENTS FOR FISCAL YEARS 2003  
3       THROUGH 2007.—

4           “(A) IN GENERAL.—In addition to the  
5       amounts required to be transferred from the  
6       surplus funds of the Federal reserve banks pur-  
7       suant to subsection (a)(3), the Federal reserve  
8       banks shall transfer from such surplus funds to  
9       the Board of Governors of the Federal Reserve  
10      System for transfer to the Secretary of the  
11      Treasury for deposit in the general fund of the  
12      Treasury, such sums as are necessary to equal  
13      the net cost of section 19(b)(12) in each of the  
14      fiscal years 2003 through 2007.

15          “(B) ALLOCATION BY FEDERAL RESERVE  
16      BOARD.—Of the total amount required to be  
17      paid by the Federal reserve banks under sub-  
18      paragraph (A) for fiscal years 2003 through  
19      2007, the Board of Governors of the Federal  
20      Reserve System shall determine the amount  
21      each such bank shall pay in such fiscal year.

22          “(C) REPLENISHMENT OF SURPLUS FUND  
23      PROHIBITED.—During fiscal years 2003  
24      through 2007, no Federal reserve bank may re-  
25      plenish such bank’s surplus fund by the amount

1 of any transfer by such bank under subpara-  
2 graph (A).”.

3 (b) TECHNICAL AND CONFORMING AMENDMENT.—  
4 Section 7(a) of the Federal Reserve Act (12 U.S.C.  
5 289(a)) is amended by adding at the end the following  
6 new paragraph:

7 “(3) PAYMENT TO TREASURY.—During fiscal  
8 years 2003 through 2007, any amount in the sur-  
9 plus fund of any Federal reserve bank in excess of  
10 the amount equal to 3 percent of the paid-in capital  
11 and surplus of the member banks of such bank shall  
12 be transferred to the Secretary of the Treasury for  
13 deposit in the general fund of the Treasury.”.

14 **SEC. 7. RULE OF CONSTRUCTION.**

15 In the case of an escrow account maintained at a de-  
16 pository institution in connection with a real estate trans-  
17 action—

18 (1) the absorption, by the depository institution,  
19 of expenses incidental to providing a normal banking  
20 service with respect to such escrow account;

21 (2) the forbearance, by the depository institu-  
22 tion, from charging a fee for providing any such  
23 banking function; and

24 (3) any benefit which may accrue to the holder  
25 or the beneficiary of such escrow account as a result

1 of an action of the depository institution described  
2 in subparagraph (1) or (2) or similar in nature to  
3 such action,  
4 shall not be treated as the payment or receipt of interest  
5 for purposes of this Act and any provision of Public Law  
6 93–100, the Federal Reserve Act, the Home Owners’ Loan  
7 Act, or the Federal Deposit Insurance Act relating to the  
8 payment of interest on accounts or deposits at depository  
9 institutions, provided, however, that nothing herein shall  
10 be construed so as to require a depository institution that  
11 maintains an escrow account in connection with a real es-  
12 tate transaction to pay interest on such escrow account  
13 or to prohibit such institution from paying interest on  
14 such escrow account. Nor shall anything herein be con-  
15 strued to preempt the provisions of law of any State deal-  
16 ing with the payment of interest on escrow accounts main-  
17 tained in connection with real estate transactions.

Passed the House of Representatives April 1, 2003.

Attest:

JEFF TRANDAHL,

*Clerk.*